

**VIA ECF**

The Honorable Arun Subramanian  
United States District Court for the Southern District of New York  
500 Pearl Street, Courtroom 15A  
New York, NY 10007-1312

June 30, 2025

**Re: *United States et al. v. Live Nation Entertainment, Inc. et al.*; 1:24-cv-03973-AS-SLC**

Dear Judge Subramanian:

Plaintiffs write pursuant to the Court’s June 27 Order and in response to Defendants’ motion to compel non-party SeatGeek, Inc. (“SeatGeek”) to produce text and Slack messages (“the Motion”) (ECF No. 586). Defendants argue in their Motion that the sought-after texts and Slack messages are “critical” to their case; yet, Defendants waited until the end of fact discovery—and after five of six SeatGeek depositions—to seek this relief. Plaintiffs take no position on the substantive merits of Defendants’ Motion but oppose it to the extent that any relief Defendants seek in their late-filed Motion causes prejudice to Plaintiffs.

As an initial matter, Defendants negotiated their 89-request document subpoena to SeatGeek directly with SeatGeek. Plaintiffs did not participate in any of those negotiations or in the meet-and-confers between SeatGeek and Defendants regarding the production of text or Slack messages.<sup>1</sup>

Having timely served their own discovery requests on SeatGeek, Plaintiffs (like Defendants) also received SeatGeek’s rolling productions in May and June. Plaintiffs proceeded to take five cross-noticed depositions of SeatGeek witnesses between May 27 and June 11.<sup>2</sup> At no point before these depositions did Defendants alert Plaintiffs of any concerns that SeatGeek had not produced “critical” documents.

Defendants could have raised these production issues much earlier than their June 25 Motion. This is not an instance where the existence of these text or Slack messages were newly-discovered by Defendants over the course of the five SeatGeek depositions. For example, Defendants’ Exhibit C is a text message exchange produced during the investigation. Plaintiffs produced that document to Defendants in August 2024, and Defendants’ counsel questioned the custodian of that document about it at his May 22 deposition. And, as Defendants acknowledge in their Motion, SeatGeek produced text and Slack messages in the investigation; Plaintiffs produced

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<sup>1</sup> The reference to “Plaintiffs” in footnote 1 of Defendants’ Motion is inaccurate. Plaintiffs did not attend—nor were Plaintiffs invited to—the June 10, 13, or 19 meet-and-confers between Defendants and SeatGeek.

<sup>2</sup> Defendants also contrast their production of text messages for 55 custodians to SeatGeek’s production. But, such a comparison is inapposite for many reasons—not the least of which being that Defendants are a party to this litigation and SeatGeek is a non-party.

those same documents to Defendants in August 2024. In other words, Defendants were fully aware of the existence of potentially responsive text and Slack messages by SeatGeek executives many months ago. Yet, they chose to move forward with five SeatGeek depositions without those documents and without alerting Plaintiffs that this dispute was brewing.

The relief sought in Defendants' Motion has the potential to unduly prejudice Plaintiffs, who have diligently taken depositions and sought discovery from non-parties. Plaintiffs allocated their deposition time for the SeatGeek witnesses with the understanding that document productions for those SeatGeek witnesses were substantially complete. Further, the timing of any such production may unduly hinder Plaintiffs' ability to use those documents, and any subsequent deposition testimony, in their expert reports.<sup>3</sup>

For the foregoing reasons, Plaintiffs respectfully request that if the Court grants the Motion, it also order that: (1) any deposition time spent by Plaintiffs on any newly-produced SeatGeek documents will not count against Plaintiffs' 300-hour allotment (but any deposition time spent by Defendants on these documents would count against Defendants' deposition allotment); (2) Plaintiffs will be able to supplement Plaintiffs' expert reports to account for any newly-produced SeatGeek documents; and (3) any such production will not otherwise impact the schedule.

Respectfully submitted,

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<sup>3</sup> Finally, Plaintiffs disagree with many, if not all, of Defendants' characterizations of SeatGeek's role in this case, as well as Defendants' cherry-picked deposition excerpts and documents. It is unnecessary for purposes of this Motion to address that here.

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